

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

6 LUCRETIA JARDINE,)
7 Plaintiff,) No. CV-06-0300-CI
8 v.) ORDER GRANTING DEFENDANT'S
9 LINDA S. McMAHON,¹ Commissioner) MOTION FOR REMAND PURSUANT
of Social Security,) TO SENTENCE SIX OF 42 U.S.C.
10) 405(g)
11 Defendant.)

13 BEFORE THE COURT is Defendant's Motion to Remand the above-
14 captioned matter to the Commissioner for additional administrative
15 proceedings, specifically to search for the claim file, or in the
16 alternative, to reconstruct Plaintiff's administrative record, hold
17 a new hearing and issue a new decision. (Ct. Rec. 9.) Attorney D.
18 James Tree represents Plaintiff; Assistant United States Attorney
19 Pamela J. DeRusha and Special Assistant United States Attorney
20 Terrye E. Shea represent Defendant. The parties have consented to
21 not object to this Motion. (Ct. Rec. 11.)

²² Pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3), the court may

¹ As of January 20, 2007, Linda S. McMahon succeeded Defendant Commissioner Jo Anne B. Barnhart as Acting Commissioner of Social Security,. Pursuant to FED. R. CIV. P. 25(d)(1), Commissioner Linda S. McMahon should be substituted as Defendant, and this lawsuit proceeds without further action by the parties. 42 U.S.C. 405 (g).

1 remand the case to the Commissioner for good cause shown before she
2 files an answer. See *Melkonyan v. Sullivan*, 501 U.S. 89, 101 n.2
3 (1991). Here, good cause exists in that Defendant has not filed an
4 answer and the Commissioner is unable to locate the claim file of
5 the Administrative Law Judge's decision dated August 9, 2006, in
6 this matter. Sentence six further requires the Commissioner to
7 return to the district court to "file with the court any such
8 additional or modified findings of fact and decision, and a
9 transcript of the additional record and testimony upon which his
10 action in modifying or affirming was based." *Id.* at 98 (quoting
11 Sentence six). Accordingly,

12 **IT IS ORDERED:**

13 1. Defendant's Motion for Remand (**Ct. Rec. 9**) is **GRANTED**;
14 2. Defendant shall continue to search for the claim file, or
15 in the alternative, reconstruct Plaintiff's administrative record,
16 hold another hearing and issue a new decision. Defendant shall also
17 review any materials available from and submitted by Plaintiff's
18 representative.

19 3. The court shall maintain jurisdiction of this action. The
20 District Court Executive is directed to enter this Order and forward
21 copies to counsel.

22 DATED February 2, 2007.

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S/ CYNTHIA IMBROGNO
UNITED STATES MAGISTRATE JUDGE

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